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In re Application of :
THOMAS EXNER :
Application No.: 09/601,073 :
PCT No.: PCT/AU99/00069 :
Int. Filing Date: 01 February 1999 : DECISION ON PETITION
Priority Date: 02 February 1998 :
Attorney Docket No.: 071550.0017 :
For: IMPROVED BLOOD COAGULATION TEST:

This is a decision on applicant's 'Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)' filed in the United States Patent and Trademark Office (USPTO) via facsimile on 06 June 2001.

BACKGROUND

On 01 February 1999, applicant filed international application No. PCT/AU99/00069 which claimed a priority date of 02 February 1998. A copy of the international application had been communicated earlier to the United States Patent and Trademark Office from the International Bureau on 05 August 1999.

On 05 August 1999, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2000.

On 26 July 2000 applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the basic national fee.

On 21 August 2000, the DO/EO/US mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the surcharge for filing the oath or declaration after the thirty month period was required.

On 06 June 2001, applicant filed a petition to revive with authorization to charge their deposit account the petition fee of \$605 for a small entity. Applicant, in effect, requests the withdrawal of the holding of abandonment.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant has submitted the proper reply with the submission of the declaration, satisfying item (1). With regard to item (2), the required petition fee of \$605 has been charged to applicant's deposit account. As for item (4), since the application was filed after 08 June 1995, no terminal disclaimer is necessary in this application.

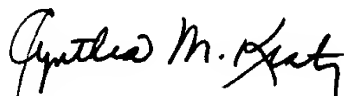
With regard to item (3), applicant's statement that "the entire delay in filing the required reply from the date until the filing of this petition was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office "[t]he entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals all of the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition to revive is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing. The 35 U.S.C. 371(c) and 102(e) date is **06 June 2001**.



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